

Educational; membership based on compatibility. An organization that selects its membership from the junior class of a college primarily on the basis of compatibility without regard to scholarship, and that holds closed meetings at which personally oriented speeches and discussions are carried on by the speaker-members, is not operated for exclusively educational purposes and does not qualify for exemption under section 501(c)(3) of the Code; Rev. Rul. 64-117 superseded.

The Internal Revenue Service has reconsidered the position set forth in Rev. Rul. 64-117, 1964-1 (Part 1) C.B. 180, which concerns an organization's qualification for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

According to its charter, the organization was incorporated as a non-stock corporation for educational purposes.

The membership of the organization consists of undergraduates and graduates of a particular college. Its activities consist mainly of membership meetings. Graduate members meet only at annual and special meetings which deal with the business aspects of the organization. The undergraduate members hold regular meetings during the academic year. These meetings are closed to the public except in the case where guest faculty speakers are invited as hereinafter described. All of the meetings are held in a house rented by the organization for such purposes.

At some meetings, designated members lead discussions or deliver speeches which are followed by discussions. The topics are selected by the designated member speaker and are generally subjective in that they are based on the speaker's personal opinions, experiences, or ideas. At certain other meetings, a guest faculty member of the college delivers a half-hour speech and then leads the membership in discussion. The topics selected by these faculty guest speakers may or may not reflect their particular areas of academic expertise. The various topics that thus become the subject of speeches and discussions do not fall within any particular or identifiable fields of inquiry. Nor is there any evidence that the discussions communicate any organized body of knowledge or information that would develop or improve the individual capabilities of the participants to a significantly greater extent than that normally attending exchanges of personal opinions and experiences in the informal atmosphere commonly characterizing meetings of social and fraternal groups or professional clubs.

Each meeting of the organization is so conducted as to encourage personal contact and fellowship among members, and the programs are usually followed by serving food and other refreshments.

With respect to the meeting house, no one is allowed to reside therein or to remain overnight. Besides being used as a meeting house, it is also open to the membership at other times and is used, for example, by the members as a study during examination periods.

The organization's receipts are from contributions by members and from membership dues. All but a nominal amount of the contributions are received from the undergraduate members who are regarded as the organization's regular members. Substantially all of the organization's income is expended in the maintenance and operation of the meeting house. Expenses in connection therewith are for food and beverages, janitorial services, furniture, rent, heating, electricity, gas, and miscellaneous items.

The organization's members are selected by the following process. Members of the undergraduate group (all seniors) nominate students for participation as members for the following year. There are no objective standards such as class standing or other evidence of academic ability for admission to the organization. The only requirement for eligibility for membership is that the nominee must be a junior at the time of nomination. The nominees are interviewed by a group of three or four members and the interviewing group votes on the nominee. The main emphasis during the interview is on the likelihood of the nominee's compatibility with the other members in general and on his desire and ability to gain from and contribute to the organization's discussions. If a majority of the interviewing group approves the prospective member's admission to the organization, he is so informed after the interview.

Section 501(c)(3) of the Code provides for the exemption of educational organizations.

Section 1.501(c)(3)-1 of the Income Tax Regulations provides that, in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(d)(3) of the regulations provides that the term 'educational,' as used in section 501(c)(3) of the Code, relates to (a) the instruction or training of the individual for the purpose of improving or developing his capabilities; or (b) the instruction of the public on subjects useful to the individual and beneficial to the community.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Prospective members of the organization are selected, in part, on the basis of social compatibility and it is evident that the functions of the organization are to a significant extent fraternal and designed to stimulate fellowship among the membership. Although the meetings conducted by guest faculty members are presumably of some educational value and those conducted by the members themselves may also have educational aspects in some instances, the overall activities of the organization are not shown to be primarily educational in the charitable sense of serving a public interest or purpose. On the contrary, the public benefit flowing from the personally oriented speeches and discussions carried on by the members in their closed meetings appears to be either nonexistent or so remote as to require the conclusion that the organization's activities do not substantially go beyond the promotion of personal contacts and fellowship among members.

Accordingly, the organization is not operated exclusively for educational purposes and does not qualify for exemption from Federal income tax under section 501(c)(3) of the Code.

Rev. Rul. 64-117 is hereby superseded. While that Ruling was correct in its holding, the rationale for arriving at the conclusion that the organization described therein was not qualified for exemption as an educational organization improperly implied that limiting the availability of its program to a relatively small membership of a restricted class was incompatible with the recognition of such an exempt status. See Rev. Rul. 56-403, 1956-2 C.B. 307.